

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
) WT Docket No. 03-187
Effects of Communications Towers on Migratory)
Birds)

Marlene H. Dortch, Secretary
Federal Communications Commission
Attention: The Commission

COMMENTS OF APPLIED TECHNOLOGY GROUP, INC.

Applied Technology Group, Inc. (ATG), by its attorney, hereby submits its Comments in the above-captioned matter. In support of its position, ATG shows the following.

The Commission requested comment on whether scientific evidence supports the rule which the Commission proposed. ATG agrees with the opinion of the Fish and Wildlife Service that “there is no standard research protocol to study mortality events at communications towers,” Notice of Proposed Rulemaking (NPRM) at para 16, and that “only a broad cumulative impacts study would assess the whole situation,” *id.* ATG agrees with the conclusion of the Avatar report that “the state of science on avian mortality is insufficient to support changes to the Commission’s environmental rules,” NPRM at para 28, more specifically, that “more research is warranted in order to identify specific causes and possible solutions to this problem,” NPRM at para 23.

The American Bird Conservancy, Forest Conservation Council, and Friends of the Earth (Groups) relied on a small number of claims, some of which strain credulity. The Commission

cannot rely on the Groups' claim that "the reported kills represent only the tip of the iceberg." The credible facts available are all that the Commission can rely on its decision making, not unsupported claims that if more facts were known, a different conclusion might be reached.

The study prepared by Land Protection Partners (LPP) and presented by the Groups is questionable in many ways. The study appears to have relied on flawed and inadequate data, then multiplied that data by factors supplied by one of the Groups to produce an estimate with a span of 10 to 1.

ATG respects the efforts of Dr. Joelle Gehring to gather data on the presence of migratory bird carcasses in the vicinity of towers. The finding of a dead bird in the vicinity of a tower does not necessarily mean that the bird struck the tower. Further, the number of towers studied by Dr. Gehring (21) is entirely too small a number to serve as a basis for regulating the more than 100,000 towers in the United States.

ATG believes that, to impose new regulations, the Commission should not rely on reports which are anecdotal or fragmentary in nature. However, if the Commission considers anecdotal reports of migratory bird deaths, it should balance them against anecdotal reports of an absence of such deaths.

ATG operates at 50 towers, 7 of which it owns. Among the towers are 1 which are guyed, and 49 which are unguyed. None of the towers used by ATG is required to be painted or lighted.

The towers range in height from 100 feet to 140 feet with faces ranging from three to five feet. ATG personnel have an occasion to visit at least one of the tower three to four times per week. None of ATG's personnel has ever reported finding a dead bird in the vicinity of the tower.

ATG's Chief Executive Officer, George Gillam, has been directly involved in the radio communications business for 50 years. Mr. Gillam spent five years with the Federal Aviation Administration traveling an 11 state territory to service radio communications sites. During that time, he was at a tower site almost every working day. Since 1962, Mr. Gillam has been with his extended family's telecommunications business at Bakersfield, California, doing hands-on technical work at tower sites for much of that time. Mr. Gillam states that, although he sees birds perching on the tower at site at ATG's office nearly every day, in more than 50 years in the telecommunications business, he has never seen a dead bird at a tower site.

Conclusion

For all the foregoing reasons, ATG respectfully requests that the Commission not adopt the Rules which it has proposed.

Respectfully submitted,
APPLIED TECHNOLOGY GROUP, INC

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